

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**UNITED STATES OF AMERICA**

**V.**

**ANTHONY RAY MCMORRIS**

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**CRIMINAL NO. 6:04-CR-74-012**

**REPORT & RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE**

On January 11, 2007, the Court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant, Anthony Ray McMorris. The government was represented by Allen Hurst, Assistant United States Attorney for the Eastern District of Texas, and Defendant was represented by court-appointed counsel, Ken Hawk.

Defendant originally pleaded guilty to the offense of Possession with Intent to Distribute and Distribution of Cocaine, a Class C felony. The offense carried a statutory maximum imprisonment term of 20 years. The United States Sentencing Guideline range, based on a total offense level of 13 and a criminal history category of I, was 12 to 18 months. On November 29, 2005, U.S. District Judge Michael H. Schneider sentenced Defendant to 12 months and 1 day imprisonment followed by a term of three years supervised release, subject to the standard conditions of release, plus special conditions to include drug aftercare and financial disclosure. On December 31, 2005, Defendant completed the term of imprisonment and began the term of supervised release.

Under the terms of supervised release, Defendant was prohibited, in relevant part, from: committing another federal, state or local crime. In its petition, the government alleges that Defendant violated his term of supervised release by being convicted of a misdemeanor state offense, Possession of Marijuana.

If the Court finds by a preponderance of the evidence that Defendant committed this violation, a statutory sentence of no more than two years of imprisonment may be imposed. 18 U.S.C. § 3583(e)(3). Pursuant to Section 7B1.1(a) of the Sentencing Guidelines, violating a condition of supervision by committing a state offense of Possession of Marijuana would constitute a Grade C violation, for which the Court shall revoke Defendant's term of supervised release in favor of a term of imprisonment, or extend the term of probation or supervised release and/or modify the conditions of supervised release. U.S.S.G. § 7B3.1(a)(1). Considering Defendant's criminal history category of I, the Guideline imprisonment range for a Class C violation is 3 to 9 months. U.S.S.G. § 7B1.4(a).

At the hearing, the parties indicated they had come to an agreement to resolve the petition whereby Defendant would plead true to violating a condition of supervision of not committing another crime. In exchange, the government agreed to recommend that Defendant serve 90-days in prison, with no supervised release to follow.

Pursuant to the Sentencing Reform Act of 1984, and the agreement of the parties, the Court RECOMMENDS that Defendant, Anthony Ray McMorris, be committed to the custody of the Bureau of Prisons for a term of imprisonment of 90 days, with no supervised release to follow. The parties have waived their right to object to the findings of the Magistrate Judge in this matter so the Court will present this Report and Recommendation to Judge Schneider for adoption immediately upon issuance.

**So ORDERED and SIGNED this 16th day of January, 2007.**

  
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JOHN D. LOVE  
UNITED STATES MAGISTRATE JUDGE